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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

17 CR 684 (ER)

5 CHRISTIAN DAWKINS,

6 Defendant.

7 -----x
8 New York, N.Y.
9 October 3, 2019
2:30 p.m.

10 Before:

11 HON. EDGARDO RAMOS,

12 District Judge

13 APPEARANCES

14
15 GEOFFREY S. BERMAN,
16 United States Attorney for the
17 Southern District of New York
18 ROBERT BOONE
19 ELI J. MARK
20 NOAH SOLOWIEJCZYK
21 Assistant United States Attorneys

22 STEVEN A. HANEY, SR.
23 Attorney for Defendant
24
25

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1
2 (Case called)

3 MR. BOONE: Good morning, your Honor. Robert Boone
4 from the government. Here with me at counsel's table are Eli
5 Mark and Noah Solowiejczyk.

6 THE COURT: Good afternoon.

7 MR. HANEY: And good afternoon, your Honor. Steve
8 Haney on behalf of Mr. Dawkins, who appears to my right.

9 THE COURT: Good afternoon to you too.

10 This matter is on for sentencing. In preparation for
11 today's proceedings, I have reviewed the following: I have
12 reviewed the presentence investigation report, last revised on
13 August 29, 2019, prepared by U.S. probation officer Nicolo
14 DiMaria, which includes a recommendation; I have reviewed the
15 sentencing letter submitted by Mr. Haney, filed on August 19,
16 2019, which includes letters submitted by Mr. Dawkins' father
17 and various of his friends; and I have reviewed the
18 government's submission, dated September 27, 2019, in
19 connection with some other sentencings in this case; I've also
20 reviewed, I believe, two victim impact statements from two of
21 the universities that are alleged to have been victimized in
22 this case.

23 Is there anything else that I should have received or
24 reviewed, Mr. Boone?

25 MR. BOONE: Not from the government, your Honor.

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1 THE COURT: Mr. Haney?

2 MR. HANEY: No, your Honor. Thank you.

3 THE COURT: Very well.

4 Mr. Haney, have you read the presentence report and
5 discussed it with Mr. Dawkins?

6 MR. HANEY: I have, your Honor.

7 THE COURT: And, Mr. Dawkins, have you received a copy
8 of the presentence report and discussed it with your attorney?

9 THE DEFENDANT: I have.

10 THE COURT: Other than the objections that are noted
11 in the presentence report, are there any objections to the
12 report concerning its factual accuracy?

13 MR. HANEY: Not on behalf of the facts, your Honor.

14 THE COURT: Very well.

15 Although I am not required to impose a sentence within
16 the guidelines range, I am required to consider the guidelines
17 in imposing sentence, and in order to do so, I need to
18 determine the applicable sentencing range.

19 Mr. Dawkins was convicted of Counts One and Two of the
20 indictment, which charge him with conspiracy to commit bribery
21 in violation of 18, U.S.C., Section 371, and bribery in
22 violation of 18, U.S.C., Section 666. Those counts are
23 grouped. And it carries a base offense level of 12, to which
24 two levels are added because the crime involved more than one
25 bribe.

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1 And then the amount of the bribes and whether or not
2 an obstruction of justice adjustment is appropriate, I believe,
3 are still being disputed; is that right, Mr. Haney?

4 MR. HANEY: That would be correct, your Honor.

5 THE COURT: Okay.

6 So let's first talk about the amount of the bribes.
7 According to the government and the probation department, Mr.
8 Dawkins is being held liable for approximately \$58,000 in
9 bribes.

10 Why isn't that the correct number?

11 MR. HANEY: Your Honor, may I use the podium?

12 THE COURT: You may, absolutely.

13 MR. HANEY: It's easier for me.

14 Your Honor, as noted in my sentencing memorandum with
15 respect to Mr. Dawkins, I calculated the loss amount of the
16 bribe amount to be \$32,000, \$32,800, as opposed to the \$58,100
17 that was noted in the presentence investigation report on page
18 17, paragraph 104. My calculation in my submission to the
19 Court -- and I have exhaustively referenced it in my sentencing
20 memorandum, your Honor -- I submit that the record evidence in
21 this case was rather clear that Mr. Dawkins did deposit in ATM
22 machines a total of \$20,300 in both Las Vegas, Nevada and in
23 Inglewood, California.

24 Your Honor, I would submit that the timing of those
25 deposits coincides with, in fact, what he told Merl Code he was

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1 going to on June 20, 2017 -- and we heard the phone call
2 several times during the course of the trial -- in that phone
3 call when he told Merl Code, I just hung up with Jeff D'Angelo,
4 the coach's model does not make sense, I am not going to pay
5 the coaches.

6 And then Mr. Code responded, so you're going to take
7 those fools' money?

8 And Mr. Dawkins, if the Court recalls that phone call,
9 noted, exactly that's what I'm going to do, I'm just going to
10 take his money.

11 Two months later, the same individual, Jeff D'Angelo,
12 provided Mr. Dawkins with \$20,300 in cash. The same day,
13 within hours, he deposited that money in the ATM machine.

14 Now, I know the government contends that that was just
15 some elaborate lie, and they have actually referenced that in
16 their memorandum to enhance for obstruction. But I would
17 submit that it's supportive by the evidence at trial. I also
18 would emphasize -- not that we're here to excuse or retry this
19 case -- that Mr. Dawkins was acquitted on the majority of the
20 charges at trial. So I would submit the jury believed some of
21 the defense. And I don't believe that that \$58,100 amount,
22 which is the entire amount of money that he received from the
23 government or from the undercover operative would be
24 representative of what his bribe calculated amount should be
25 for guideline purposes, your Honor.

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1 THE COURT: Well, he was acquitted of some counts but
2 he was convicted of the bribery counts. So why should I take
3 that into consideration at all?

4 MR. HANEY: Well, your Honor, nobody polled the jury.
5 We don't know what bribery counts they convicted him of. We
6 don't know who they were satisfied or believed actually was
7 bribed. We do know that, as the Court has noted, they found
8 him guilty of bribery. And, based on the Lamont Evans
9 transactions and the evidence there, that's a hard argument to
10 make, that, based on their findings of the law, that that
11 wasn't supportive of that finding. But I don't think anybody
12 can answer that question with any degree of satisfaction or
13 accuracy, in saying the jury concluded that the loss amount was
14 \$58,100. And all I can do is reference the record evidence,
15 which is undeniable, that he did put cash in those ATM
16 machines, and he did, within hours of getting the money from
17 the guy, he said on the wiretap, that he was going to steal the
18 money from, so --

19 THE COURT: I'll ask the government this as well.

20 MR. HANEY: Yes, your Honor.

21 THE COURT: Are you saying there was not an identity
22 of amounts in terms of what Mr. Dawkins received and what he
23 paid the coaches?

24 MR. HANEY: I would say that, along with the
25 supportive evidence at trial, that he did what he said he was

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1 going to do, which is take the money from the FBI and keep it.
2 And that was reflected by the record evidence, I submit, by way
3 of the deposits he made into the ATM machines.

4 THE COURT: I don't want to have to depend on Mr.
5 Dawkins at this point, but what I'm trying to do is whether
6 someone has done the calculation, as to of the money that was
7 given to Mr. Dawkins, how much of that money was given to
8 coaches. Because you have to understand, I understand the
9 argument that you made to the jury, but I had three coaches
10 come before me and plead guilty and admit they took bribes, so
11 some bribes were paid, so I'm trying to determine what the
12 delta is between the amount of money that Mr. Dawkins received
13 and the amount of money that was paid to coaches.

14 MR. HANEY: I recognize that, your Honor, but also, I
15 would recognize too that Tony Bland pled to an amount -- I
16 believe before your Honor, it wasn't at a sentencing -- that
17 was certainly less than what the government contended it was,
18 and, in fact, when they superseded their indictment, they
19 corrected the mistake and modified the amount of money that
20 Tony Bland accepted from Christian Dawkins, because they
21 recognized and realized he didn't receive everything.

22 So I don't believe the government is certain -- I
23 don't think anybody is certain -- exactly what amounts of money
24 Christian Dawkins did given the coaches and what amounts of
25 money he kept. But one thing is certain: He kept money. And

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1 one thing is certain: He told Merl Code, when he was being
2 monitored on a phone call, and he was unaware he was being
3 monitored on a phone call, he was going to steal the money from
4 the FBI agent. He didn't know, obviously, it was an FBI agent,
5 but for him, two months later, to put the money in the bank --
6 and we had bank records at trial that supported that -- I don't
7 believe -- I don't think anybody can say that the jury didn't
8 buy that, obviously the jury bought a lot, as they acquitted
9 him on the majority of the charges.

10 THE COURT: Okay.

11 MR. HANEY: Thank you, your Honor. And, of course,
12 it's the Court's discretion; I'm making my argument here, your
13 Honor.

14 THE COURT: Very well. Thank you, Mr. Haney.

15 MR. HANEY: Thank you, your Honor.

16 THE COURT: Mr. Boone?

17 MR. BOONE: Thank you, your Honor.

18 As we said in our sentencing submission, at least in
19 regards to this argument in particular, is, defense counsel is
20 clearly trying to relitigate what the jury has already
21 determined. He was convicted of bribery, so any arguments to
22 the contrary, in terms of him having the intent to pay bribes,
23 has been resolved by the jury's verdict.

24 In terms of his specific arguments, let's first sort
25 of walk the Court through the bribe payments. \$22,000 went to

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1 Lamont Evans, \$20,000 went to Emanuel Richardson, \$6,000 went
2 to Murphy, \$6,000 went to Barker, and then we credited \$4,100
3 that went to Bland.

4 As your Honor intimately knows, each of those coaches
5 admitted to receiving that amount. So that, in and of itself,
6 counters the defendant's claim that he actually kept the money
7 and he didn't actually receive the money.

8 In addition to that, his argument that, well, there
9 were these deposits -- and, again, this is an argument that was
10 made at trial and the jury heard it, and we gave our counter
11 but our counter is still the same -- to the extent he's arguing
12 there are deposits made and maybe they reflected the money he
13 kept, none of that was proven. He hasn't traced any of those
14 deposits to anything. The 22 or 25 thousand dollars he
15 mentioned earlier, as we said, and we showed at trial, actually
16 was from Ricky Robertson and related to the Gatto case.

17 The \$8,000 that he referenced at trial as being an
18 example of deposited bribe money was actually a check from
19 Munish Sood, who was obviously not a coach. So other than just
20 sort saying this is what happened, he hasn't actually proven
21 anything -- obviously, it's not his burden at trial to prove
22 anything -- but, here, when he's taking it upon himself to
23 counter the guidelines calculation, he hasn't offered any
24 support other than just saying, it must be true because I'm
25 saying it's true and there are these deposits.

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1 Just to remind your Honor, Mr. Blazer, at trial, sort
2 of went over the bribery amounts, particularly those given in
3 Las Vegas, that he was aware of.

4 So, again, there's certainly more than enough evidence
5 in the record to show that, at a minimum, \$40,000, which is the
6 threshold for guidelines purposes for the six-point
7 enhancement, was met.

8 THE COURT: And the amounts that you listed, 22,000 to
9 Mr. Evans, 20,000 to Mr. Richardson, 6,000 to Murphy, 6,000 to
10 -- Barker?

11 MR. BOONE: Correct, Corey Barker.

12 THE COURT: -- and the 4,000 to?

13 MR. BOONE: Tony Bland, 4100.

14 THE COURT: So that adds up to \$58,100?

15 MR. BOONE: Correct. That is how we calculate the
16 number.

17 THE COURT: Thank you.

18 Yes, Mr. Haney, those numbers are numbers that
19 individuals admitted to or that were otherwise proven. So it
20 does add up to \$58,100. And, in any event, certainly the
21 amounts given to Mr. Richardson, Mr. Evans and Mr. Bland, who
22 were part of this case, add up to more than \$40,000, which
23 meets the level 6 enhancement. So, I will add six levels
24 because the amount of bribes involved in this case is more than
25 \$40,000.

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1 Now, with respect to obstruction of justice, Mr.
2 Haney, did you wish to be heard?

3 MR. HANEY: Yes, your Honor, I do.

4 Your Honor, the government has noted in their
5 memorandum a case actually I'm relying upon as well -- that
6 would be U.S. v. Agudelo, a Second Circuit case, which held, in
7 part, that alleged false information could have been a result
8 of a misunderstanding or mistake rather than a willful
9 fabrication. Under the U.S. v. Zagari, also a Second Circuit
10 case, the sentencing court must find that the defendant, by a
11 preponderance of the evidence, willfully and materially
12 committed perjury, which is (a) the intentional giving of false
13 testimony as to a material matter, and then enhancement is
14 appropriately only where the defendant acts willfully,
15 intentionally to provide false testimony, rather than as a
16 result of confusion, mistake or faulty memory.

17 When Mr. Dawkins testified, it's clear he was
18 testifying to facts that had occurred a year and a half
19 earlier. And I know the government made exception or made an
20 example of the Marcus Phillips versus Marcus Foster example in
21 their sentencing memorandum, and I think they missed the point.
22 The point was, neither Marcus Phillips nor Marcus Foster was an
23 NBA prospect. That was the point of the testimony -- that was
24 what was material about that testimony -- was that Preston
25 Murphy was there with Christian Dawkins, telling the FBI agent

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1 information that was not true so that the undercover FBI agent
2 would then provide Preston Murphy with the \$6,000.

3 I would also note that with Corey Barker, the \$6,000
4 the government has alleged, Corey Barker just got hired
5 yesterday at New Mexico State University to still coach college
6 basketball. So somebody within at NCAA, New Mexico State,
7 somebody, was satisfied that whatever was represented to them
8 occurred didn't with respect to Corey Barker. But I submit a
9 two-level enhancement, given the facts and circumstances of
10 this case, does not rise to the level of obstruction and should
11 not be counted towards him with the sentencing guidelines or
12 against him.

13 THE COURT: Are you suggesting that the instances of
14 purported perjury that the government points to are simply
15 mistakes made by Mr. Dawkins when he testified?

16 MR. HANEY: Well, we materially differ in their claim
17 that the cash deposits were a fictitious fabrication of money
18 that maybe he got from somewhere else but claimed that that was
19 money that he took from the FBI and deposited it into the ATM
20 machines. We'll never agree on that. That's just a question
21 of fact that I don't agree with, and I think it's supportive,
22 again, of what other evidence was during the course of the
23 trial.

24 THE COURT: But didn't the government offer
25 documentary evidence supporting their position that those

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1 monies that were deposited by Mr. Dawkins were not the money
2 that were given to him by the undercovers?

3 MR. HANEY: In one instance, they referenced the
4 \$25,000 check deposit -- not a cash deposit -- from evidence
5 from the Gatto case Ricky Robinson South Carolina Supreme, I
6 believe, AAU program.

7 THE COURT: Why isn't that false?

8 MR. HANEY: Well, the evidence, the record evidence,
9 and testimony that I recall, your Honor, was that Christian
10 Dawkins was referencing the money he took from the FBI and that
11 he put into the bank.

12 THE COURT: Right. So he said that he received 25 --
13 or however much money in cash from the undercover and that's
14 the money that he deposited, but the government established at
15 trial that, in fact, that deposit was a check and the
16 approximate amount of the cash that he received from the
17 undercover.

18 MR. HANEY: Well, your Honor, I don't believe the
19 testimony ever was all the money that was deposited was from
20 the undercover FBI, that the testimony, at least on direct and
21 on cross, that I recall, dealt with money that he received from
22 Jeff D'Angelo directly by way of cash. Whether it was in hotel
23 meetings, whether it was in other meetings he had with Jeff
24 D'Angelo, that that money is the money that he in fact
25 deposited in the ATM machines or, in the situation with Barker

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1 and Murphy, was money that he received back from those two
2 coaches.

3 THE COURT: And the testimony there, as I recall, was
4 that he gave -- and I forget the name of the coach he gave
5 money to, but he gave the coach money and they met up
6 afterwards and went into a in bathroom stall, and the coach
7 gave him money back.

8 MR. HANEY: That is correct. That was Preston Murphy,
9 your Honor.

10 THE COURT: Why isn't that facially preposterous?

11 MR. HANEY: I don't know why it would be facially
12 preposterous.

13 THE COURT: That an individual coach would agree to
14 take part in arguably fraudulent conduct as a favor to Mr.
15 Dawkins, give him all the money back, and take nothing for
16 himself, that seems to me to be preposterous.

17 MR. HANEY: Well, your Honor, if you recall, they had
18 grew up together, they had been friends in Saginaw, Michigan.
19 This wasn't just a coach he knew, that he called up and had
20 come over. This is a guy he had grown up with. And I don't
21 believe -- at least to me, facially, that would not be a
22 circumstance that couldn't exist between two fronds.

23 THE COURT: And the coach gets nothing out of it other
24 than his affection for Mr. Dawkins?

25 MR. HANEY: Absolutely. I don't think there's some

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1 rule that that is that implausible, I don't think that that is
2 that much of a reach.

3 THE COURT: Let's talk about the Phillips/Foster
4 situation. You indicated that the point of that was to
5 establish that neither one of these gentlemen became NBA
6 players. I thought the point of that was to show that Mr.
7 Dawkins was grifting the undercovers.

8 MR. HANEY: It was.

9 THE COURT: So then it's not because neither of these
10 players became NBA players?

11 MR. HANEY: No, it was because neither of those
12 players -- in fact, Creighton didn't have the single player in
13 the roster that was an NBA prospect, so it was even more
14 preposterous than that. There was nobody on the Creighton
15 basketball team that year that was anything remotely an NBA
16 prospect, and that was the point of the testimony, not the
17 actual name of what Marcus' last name was.

18 The player in question that was being pitched or sold
19 to the FBI as a valuable commodity that could be delivered to
20 Loyd Management, that player didn't exist because Creighton
21 didn't have a player on their roster that was going to ever be
22 a Loyd Management client. And that was supported at trial, I
23 would submit to the Court.

24 THE COURT: Well, except that the very point of it
25 was, arguably, the government argues, is that the government

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1 made a mistake in the transcript, Mr. Dawkins saw the mistake,
2 and created a narrative that fit with his argument to the jury
3 that he was not really interested in bribing coaches but,
4 rather, grifting the FBI agents.

5 So what does that have to do with Creighton not having
6 any NBA-caliber players?

7 MR. HANEY: Because the reference to this Marcus
8 Foster/Phillips, whoever he was, that player did not exist in
9 the context of being a future commodity for Loyd Management or
10 anybody worth bribing for.

11 THE COURT: But what he told the jury was that he and
12 the coach decided to make up a story and they gave them the
13 name of a player that doesn't exist. And that's the story that
14 he told the jury, when, in fact, I think the government
15 established, that they made a mistake and Mr. Dawkins sought to
16 exploit that mistake. I don't see how your explanation
17 explains that away.

18 MR. HANEY: Your Honor, my recollection, again, of
19 his testimony was that the reference to Marcus Foster/Phillips
20 was done with the intention of convincing Jeff D'Angelo that he
21 had a player at Creighton that could one day be a Loyd
22 Management client, therefore paying Preston Murphy money would
23 be a wise investment because Preston Murphy could influence
24 that player, that didn't exist, to sign the Loyd Management,
25 and that was the justification for the \$6,000 paid. The fact

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1 that a year and a half later there's a question about whether
2 or not Marcus' last name was Foster or Phillips, I would
3 submit, your Honor, would be, at least under what I've cited as
4 authority, would be inappropriate if that was nothing other
5 than faulty member, confusion or mistake, based on the fact
6 that it occurred a year and a half, earlier understanding, too,
7 that he was on the witness stand for, I believe, that whole
8 day.

9 THE COURT: Okay.

10 MR. HANEY: Thank you, your Honor.

11 THE COURT: Thank you.

12 Mr. Boone?

13 MR. BOONE: Your Honor, just briefly.

14 I think you sort of made some of the points we would
15 make, particularly in regards to Marcus Foster. Obviously, the
16 point of him telling that story on the stand was a part of his
17 general testimony, which was that all of these Vegas meetings
18 were simply a ruse and that he was not actually intending to
19 take bribes from the coaches.

20 To the extent that it's of interest to the Court,
21 Marcus Foster actually did enter the NBA, so, at least as far
22 as he's concerned, he was an NBA-caliber player -- NBA draft,
23 sorry.

24 But our bigger point, your Honor, is all of the
25 defendant's testimony was geared towards, and aimed at,

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1 convincing the jury that he did not want to pay college
2 coaches. We introduced several elements of evidence that
3 showed he in fact did want to pay college coaches, and had a
4 history of doing so, we introduced recordings in which he
5 stressed the importance and what was so great about paying
6 college coaches, which clearly stood in contrast to his
7 testimony, that included the sort of lie about how he actually
8 was sort of pretending to pay college coaches.

9 And, based on the jury's verdict, it's clear they also
10 believed that was a lie, as it seems implausible they could
11 find him guilty of committing bribery based on his testimony
12 that he did not commit bribery.

13 THE COURT: Thank you. Yes, I do find that the
14 enhancement for obstruction of justice is appropriate in this
15 case. Obviously, although the jury did not hear this, I did,
16 and there were several coaches, again, that came before me and
17 pled guilty and admitted that they received bribes from,
18 amongst others, Mr. Dawkins and Mr. Dawkins' coconspirators.
19 Mr. Dawkins clearly and materially denied that he had done so.
20 I find that that testimony was false, and that it was meant to
21 deceive the jury, so I do find that.

22 And the other instances that we discussed, including
23 the Phillips/Foster dichotomy, I do not find that the
24 explanation that has been provided for it is colorable. I do
25 find that he perjured himself with respect to that testimony as

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1 well, as well as the testimony concerning the deposits that
2 were made at the ATMs.

3 So, for those reasons, I do find that the enhancement
4 for obstruction of justice is appropriate.

5 Accordingly, the total offense level, in this case,
6 will be 22 because, again, there was a base offense level of
7 12; two levels were added because there was more than one
8 bribe; six levels are added because the amount of the bribes
9 was at least \$40,000; and two levels are added for obstruction
10 of justice.

11 Now, with respect to criminal history category: The
12 government and probation recommend that, or suggest, that he is
13 in criminal history category II because of the sentence that
14 was imposed on him by Judge Kaplan in the related case.

15 Mr. Haney, did you wish to be heard?

16 MR. HANEY: Thank you, your Honor.

17 Your Honor, obviously, we do not agree that the
18 two-level enhancement in the criminal history calculation
19 should be included, and that previous conviction of the Gatto
20 case is relevant conduct to the instant offense, for not only
21 purposes of the sentencing guidelines but also for purposes of
22 concurrent sentencing, which, of course, the Court has
23 discretion.

24 Your Honor, we really rely -- I rely -- upon the
25 argument that this and the Gatto case were really one common

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1 scheme. A common scheme or plan refers to offenses
2 substantially connected to each other by at least one common
3 factor, such as common victims, common accomplices, common
4 purpose or a similar modus operandi.

5 Here, I submit, the Gatto and Evans cases could not
6 better exemplify the precise -- the definition of U.S.S.G.
7 Section 1B1.3. The scheme at all times, your Honor, with both
8 cases, in both Gatto and Evans, the scheme was always to
9 deliver clients and players, future clients, to Loyd Management
10 in both cases. The fact that in the Gatto case players are
11 being paid, family members are being paid, is no different,
12 really, than in this case where the argument that the coaches
13 were being paid to steer clients to Loyd Management. That was
14 the only scheme that existed in each of these cases, your
15 Honor.

16 We had cross-over evidence. We had the same
17 codefendants in this case with the exception of Mr. Gatto that
18 were the defendants that comprised the Gatto case. We had the
19 same cooperating witnesses testifying in this case. We
20 actually have evidence that the government just referenced for
21 purposes of arguing obstruction, which was evidence in the
22 Gatto case, which was the \$25,000 invoice from the AAU program
23 out of South Carolina.

24 I don't know how an argument can be presented, your
25 Honor, that these two cases are not related in the manner in

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1 which the Second Circuit has ruled that related conduct should
2 be viewed by the Court and that for those reasons the criminal
3 history category is enhancement is incorrect. And, perhaps
4 more importantly, with the Court's discretion as well, I don't
5 see how the two could not be viewed as concurrent to one
6 another.

7 Thank you.

8 THE COURT: Thank you.

9 Mr. Boone?

10 MR. BOONE: Your Honor, as we've argued in our
11 papers, obviously, there are two different schemes, there are
12 two different charges, there are two different goals to those
13 schemes. Here, we're dealing with a bribery case.

14 THE COURT: Let's talk about the goals, because I
15 think Mr. Haney makes a good point, that the ultimate goal in
16 both cases is to gin up clients for Loyd Management.

17 MR. BOONE: Maybe, your Honor, but that's not enough.
18 The ultimate goal, in most fraud cases, is for the defendant to
19 make more money. That doesn't necessarily mean that everything
20 they do is to make that money, is a part of the same scheme;
21 you can have multiple schemes to make money, clearly. Here,
22 one scheme was to make money by paying college coaches and
23 getting those coaches to steer players towards Loyd Management,
24 and in the Gatto case, the scheme was more aimed at getting
25 certainly players in certain universities and sort of building

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1 a relationship with those players so that down the line maybe
2 they could convince them to join Loyd Management. Those are
3 still two different schemes and, hence, why they've been
4 charged separately.

5 Also, they were not mostly overlapping individuals
6 involved in those cases. In this case, obviously, there are
7 several coaches who were charged; they were not charged in the
8 Gatto case, as Mr. Gatto obviously wasn't charged in this case.
9 The cooperating witnesses were not completely identical. Here,
10 we obviously had Mr. Blazer as one of the key cooperating
11 witnesses. He was not a witness that was called in the Gatto
12 case.

13 Similarly, in the Gatto case, TJ Gassnola, who was a
14 cooperating witness, wasn't called in the case because he had
15 nothing to do with this scheme because it was a totally a
16 separate scheme.

17 Also, here, there's -- obviously, in the Gatto case, a
18 large part of that scheme was built around Adidas, which had no
19 function at all in this case whatsoever.

20 THE COURT: Probation makes an interesting point:
21 What was the amount of the fraud in the Gatto case?

22 MR. BOONE: In terms of what we think the loss
23 amount --

24 THE COURT: Yes, the 2B1.1 table amount.

25 MR. BOONE: There was approximately \$160,000, which

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1 represented the amount of the four-year scholarships.

2 THE COURT: So, in other words, if I did not conclude
3 that the Gatto case was different, if I concluded that it was
4 relevant conduct, I would have to include that amount in the
5 loss calculation here, correct?

6 MR. BOONE: That is correct, loss calculation would go
7 up.

8 THE COURT: So \$160,000 plus \$58,000 would put Mr.
9 Dawkins in 2B1.1(b)(1)(F), which is more than \$150,000, and I
10 would have to add ten points, which means he'd be worse off?

11 MR. BOONE: Correct.

12 THE COURT: Okay. Be careful what you ask for, I
13 suppose.

14 But in any event, I do find that the probation got it
15 right, and that the two schemes are not that similar. As
16 probation indicates, these two cases involve separate schemes
17 and different victims.

18 Accordingly, I will not consider the Gatto case
19 relevant conduct. Therefore, he has two criminal history
20 points, and the criminal history category is II.

21 And I believe that is it, in terms of the guideline
22 calculation and criminal history calculation. Accordingly, I
23 find that the criminal history category is II, total offense
24 level is 22, yielding a guidelines range of 46 to 57 months.

25 Mr. Boone, does the government wish to be heard in

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1 terms of sentencing?

2 MR. BOONE: Yes, your Honor, just briefly.

3 Your Honor, we know you're very familiar with the
4 facts and our submissions, so I won't rehash many of the facts
5 or the arguments. I just want to highlight a couple of themes
6 that stood out to the government from the defendant's
7 submission, and respond to those.

8 One of those is an argument that essentially everyone
9 in the space of college basketball was doing the same type of
10 conduct that Christian Dawkins was doing but he was the one who
11 got caught and is being punished for it, and that suggests that
12 to be fair, your Honor should show some leniency because of
13 that fact.

14 First of all, your Honor, obviously, there are many
15 people who commit all sorts of crimes; there are, no doubt,
16 people committing crimes right now, and many of those people
17 may never be caught. The mere fact that many people who do the
18 same conduct haven't been caught doesn't weigh in favor of
19 giving the person caught less of a sentence or more lenient of
20 a sentence. The government argues, if anything, it favors
21 giving a fair sentence but a sentence that will send a message
22 to those who have not been caught, because, obviously, one of
23 the goals of sentencing is to deter individuals who are engaged
24 in criminal conduct from continuing to engage in that conduct,
25 and one of the ways you do that is by having a sentence that is

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1 serious enough to scare those individuals off from committing
2 that conduct. So we think his argument for leniency on the
3 grounds that many people sort of in this industry haven't been
4 punished is not one that weighs in favor of giving him the
5 probationary sentence he seeks.

6 Another argument that stood out, to the government at
7 least, was an argument that the defendant is young, and that he
8 made this bad decision when he was young, in terms of this
9 case, and that many of the other codefendants in this case were
10 significantly older and, therefore, had more life experience,
11 to make better decisions, and that he should get some sort of
12 leniency because he's a young person who made some bad
13 decisions at a young age. Again, as your Honor is aware, and
14 as I'm sure defense counsel is aware, there are individuals who
15 appear for sentencing in this courthouse regularly who have
16 committed crimes when they are young, and those individuals, in
17 some cases, have been sentenced to incarceratory sentences.
18 Obviously, the mere fact someone commits a crime when they are
19 young in age, alone, does not necessarily warrant that they do
20 not get a meaningful sentence of incarceration.

21 What I would point out in regards to this individual
22 is that, unlike at least some of the defendants who appear for
23 sentencing for having committed crimes at a young age in this
24 courthouse, the defendant here had some advantages that many
25 don't. He had two parents in his home. He had two parents who

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1 were educated, who worked in the field of education.

2 Obviously, he's talked about, in the sentencing submission,
3 about his mother being an assistant principal of a middle
4 school, his father being a high school coach and later college
5 coach; point being, he had role models in the home that some
6 people don't have, frankly, that at least could have given him
7 some guidance and some role models to look up to in terms of
8 his conduct.

9 Also, unlike some defendants who find themselves being
10 sentenced in this courthouse, the defendant had an opportunity
11 to go to college. He talked, in his sentencing submission,
12 about going to two different universities, I think, for a total
13 of about three years. Again, he was placed in another
14 environment where he's around people who are doing something
15 positive with their lives, living law-abiding lives, and so it
16 is not a scenario in which he was sort of born into a life of
17 crime and all what he saw around him were people who were also
18 involved in criminal activity. He had exposure to people who
19 were doing the right things with anywhere lives and still chose
20 to make the choices he made after the fact.

21 Another point, your Honor, staying with this topic for
22 just a second longer, is, if your Honor recalls from the
23 evidence at trial, the recordings in Las Vegas, the recordings
24 in New York, the recordings involving the undercovers that Mr.
25 Dawkins was involved in, he was the one leading those

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1 conversations in many of those cases. He's the one at Las
2 Vegas who was essentially acting as the MC of those meetings,
3 introducing the coaches to the UCs, explaining what the plan is
4 going forward. Similarly, he's the one doing that in New York
5 when they're meeting with Emanuel Richardson and his
6 codefendant, Mr. Code. He's the one who's driving the scheme.
7 It's his scheme. It's not a situation where he is, to use an
8 example, sort of the last person picked up on a car that's
9 going to do a robbery or sort of the low man on the totem pole
10 in an office whose boss asked him to sign a false document;
11 he's the person who's driving the entire criminal activity.

12 So, even though he is younger than the codefendants,
13 in many ways, he's the one who is driving this, and
14 particularly in respects to Marty Blazer and Munish Sood, he's
15 the one who's teaching them how to do this, he's the one who's
16 corrupting them, in a sense, and letting them know sort of how
17 to give bribes and why it will be a good thing to do for
18 business purposes.

19 Lastly, your Honor -- and some of this sort of was
20 exhibited earlier today -- there is a bit of a theme that the
21 defendant really didn't do the conduct that he's been convicted
22 of, he didn't actually intend to pay bribes to the coaches that
23 have been discussed, and, in fact, there were other people who
24 sort of influenced him and who are more to blame -- Andy Miller
25 is one person mentioned; Marty Blazer is mentioned; Jill, the

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1 undercover; Jeff D'Angelo, the undercover; the other
2 individuals in the scheme; many people were named to suggest
3 that they were more at fault and really more to blame for
4 defendant's conduct. That's important because one of the other
5 goals of sentencing is to deter the specific defendant from
6 committing crimes in the future. And to the extent that the
7 defendant hasn't yet fully grasped his level of responsibility
8 in what he's been convicted of, then it makes the defendant
9 more susceptible to committing crimes in the future because the
10 defendant thinks that they already didn't do anything wrong to
11 begin with.

12 I'm sure there will be an argument made that it is
13 extremely unlikely that the defendant will be involved in
14 college bribery scandal again, and that may be true, but
15 specific deterrence isn't just about the exact crime the
16 defendant has committed, it's about making sure that defendant
17 doesn't commit crimes, period. So, to the extent the defendant
18 is now in the music industry and maybe in another industry in
19 the future, the point is to have a sentence that is serious
20 enough to make it clear that committing crimes in any context,
21 even if it's basketball or not, is not acceptable and can be
22 punished.

23 So, for those reasons, the government is seeking an
24 incarceratory sentence and also for the reasons we mentioned in
25 our submission.

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1 THE COURT: Thank you.

2 Mr. Haney?

3 MR. HANEY: Thank you, your Honor.

4 Your Honor, I will submit to the Court, you could have
5 every single defendant that's either pled in this case or was
6 convicted at a jury trial, and they would come in here and say
7 what they thought, when they were doing this, was they were
8 breaking NCAA rules. There's no excuse-making here today --
9 I'm not here to try to relitigate this case -- but there is no
10 question, I'll bet every penny, either Merl Code or Christian
11 Dawkins, when they were doing what they did, ever thought for a
12 minute that it would be a federal crime.

13 I was a licensed NBA player agent for 25 years,
14 represented two Hall of Fame basketball players. I scored over
15 a thousand points at the Division One level. When I heard this
16 happened, I couldn't believe it. I immediately thought back to
17 when I played 30 years ago and thought of all the things that I
18 witnessed during those days.

19 Your Honor, we're here for one reason, and one reason
20 only, and that is because Christian Dawkins made epically poor
21 choices, of his own volition. Nobody forced him to do it.
22 Certainly, to suggest that he corrupted Marty Blazer, I say,
23 is offensive to say in this courtroom, but I'm going to move
24 on.

25 Today is not a day of whining, deflecting,

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1 relitigating or excuse-making, but it shouldn't be a day of
2 exaggerating either, your Honor. This should be a day of
3 ownership and accountability. And with ownership comes
4 acceptance for your consequences, and the realization that
5 there are consequences for poor choices. And that is where
6 Christian Dawkins stands here today, before the Court -- owning
7 and accepting the consequences of the poor choices and
8 decisions he made and the people he put around him.

9 Has he learned his lesson? You've got to be kidding.
10 How could he not? What he's been through for the last two
11 years, and, yes, I do believe it's noteworthy under 3553(a) --
12 and just in general common sense it's noteworthy -- that he
13 stands uniquely distinguishable from the other codefendants,
14 whether they pled in this courtroom or in another courtroom,
15 and that he made these decisions, he made these bad choices and
16 this poor judgment, when he was 22 years old. Certainly, as
17 men, we all know, part of growing up and becoming a man is the
18 process of falling down, making mistakes, failing, learning,
19 getting up, and dusting yourself off and being a better man the
20 next day.

21 And we have -- every man in this courtroom has -- done
22 the same thing, has fallen, put themselves around bad people
23 and made mistakes. I would submit even your Honor has too.
24 It's a cycle of manhood. It's the evolution of growth.
25 Regrettably, the people he put himself around, willingly and

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1 knowingly, and what he did, was interpreted by a jury of his
2 peers to be federal crimes. For him, that lesson is going to
3 be far more painful and it already has been.

4 So we respectfully ask the Court to grant deference --
5 not to excuse Christian Dawkins for what he did, but grant
6 deference -- to that understanding, that at 22 you're not going
7 to make the same mistakes you make at 42. And very likely what
8 he did would not have been made, those decisions would not have
9 been made, with greater life maturity and experience.

10 Christian Dawkins walked into my office August of
11 2017, your Honor, unexpectedly came in, told me about a great
12 opportunity he had. He wanted to use me and my profile of
13 having represented Magic Johnson and Dominique Wilkins, to go
14 down to Miami and meet some investors and be a part of Loyd
15 Management. I was going to be the licensed NBA player agent.
16 I sat there asking Christian about 15 questions. I said, get
17 out of my office, you're crazy, that's the worst idea I've ever
18 heard.

19 He wanted me to fly down, your Honor, and meet Jill
20 Bailey and Jeff D'Angelo. But you know what? I didn't,
21 because I was too old, I've been around, I had life experience
22 and maturity. The government knows that. My name was
23 referenced on a wiretap in the Gatto case.

24 Not to excuse what he did, your Honor. At 23 years
25 old, maybe I would have made a different decision. Maybe not,

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1 but, certainly, it's a factor you consider when you have a
2 young life standing before you.

3 And, as noted by the government, despite the literal
4 chaos of the last two years of his life, self-induced, in May
5 of this year, Christian managed, somehow, to secure a
6 contractual partnership -- not a job, a contractual
7 partnership -- with Atlantic Records, and he formed a new
8 management company. Go figure. And it wasn't called Loyd,
9 named as something different. And this new partnership with
10 Atlantic Records has resulted in Christian relocating to
11 Los Angeles -- as the Court's aware, we've transferred his
12 supervision -- and now he spends ten to twelve hours a day
13 working in a new industry, I would submit probably with less
14 regulations.

15 But, certainly, imposing a lengthy term of
16 incarceration, as I gather the government is suggesting is
17 appropriate in this case, would alter his life forever,
18 summarily would end obviously any relationship he has with his
19 new opportunity with Atlantic Records and close the door
20 literally, despite all the darkness of the last two years, your
21 Honor, all the darkness he's lived through, the doors that were
22 open, offering a glimmer of light in hope for his future.

23 I would emphasize as I wrap it up -- I know we have a
24 time limit here, but as I wrap it up, your Honor, I would note
25 this is not mere zealous advocacy or bias on behalf of his

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1 lawyer. It's not. Mr. DiMaria, from the probation department,
2 he also noted in his presentence investigation report these
3 3553(a) factors and others that I've referenced in my
4 memorandum, that a sentencing recommendation and a downward
5 departure is warranted under these circumstances, for the ones
6 also that I have noted.

7 And we would ask the Court to do nothing other than
8 adopt the spirit of these recommendations in fashioning a
9 sentence, your Honor, that balances an appropriate punishment
10 with the young life that stands before you here today.

11 Your Honor, thank you. It was an honor to be in your
12 courtroom. And thank you for allowing me to speak on behalf of
13 Christian Dawkins. And at this time, with the Court's
14 permission, he'd like to say a few words.

15 THE COURT: Absolutely.

16 MR. HANEY: Thank you, your Honor.

17 THE COURT: Mr. Dawkins.

18 THE DEFENDANT: Your Honor, thank you for the time to
19 say a few words here today.

20 I stand here today realizing the situation and my
21 choices have not just impacted my life but those closest and
22 dearest to me. That reality hurts beyond any words I can offer
23 to the Court.

24 My remorse is not for myself but for the pain and
25 embarrassment I have caused for others. I now realize none of

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1 this was worth it.

2 I was raised by my parents to accept the consequences
3 of my own actions. And even though I was --

4 THE COURT: If you want, you can take a moment, Mr.
5 Dawkins.

6 (Pause)

7 THE DEFENDANT: And even though I was offered the
8 choice to do so --

9 THE COURT: Why don't you be seated and take a moment.

10 MR. HANEY: Thank you, your Honor.

11 (Pause)

12 THE DEFENDANT: And even though I was offered the
13 choice to do so, I never pointed the finger at others in this
14 case to make it easier on me. I broke rules and associated
15 with the wrong people. Nobody forced me to do either.

16 Over the last two years, I have learned a lot about
17 life, friendship, and loyalty, that I wish I could have read in
18 a book. My personal feelings about the inequities and social
19 dysfunction about amateurism in the system, that I believe take
20 advantages of kids and their families, undoubtedly clouded my
21 judgment. At a point, I decided to play by my own set of
22 rules, and for that I am wrong.

23 My intentions were never to hurt anyone, but I realize
24 that, in the end, I did. So I will take this very difficult
25 experience, learn from it, in the end become a better person.

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1 Thank you.

2 I wrote that. I also want to say, like, I heard
3 earlier about the -- me lying on the stand. I know this is
4 going to sound crazy to you, but I wasn't, like -- I didn't --
5 one, I wasn't making that up, and I wasn't doing it make myself
6 look innocent. I was -- I mean, I was obviously trying to not
7 lose the case, but, at the same time, people did give me
8 money -- they did give me the money back. And that makes them
9 look like -- that could hurt them and they can lose their job
10 for something that they didn't do.

11 So I just want to say, I know that the whole story
12 sounds crazy and this whole thing was stupid, but some of the
13 stuff didn't happen.

14 That's all I have to say.

15 THE COURT: Thank you, Mr. Dawkins.

16 In deciding what sentence to impose, in addition to
17 the sentencing guidelines, I have considered all of the factors
18 set forth in Section 3553(a) of Title 18 of the United States
19 Code, including, as most relevant to Mr. Dawkins, the nature
20 and circumstances of the offense and his history and
21 characteristics. I considered the need for the sentence
22 imposed to reflect the seriousness of the offense, to promote
23 respect for the law, provide a just punishment for the offense,
24 afford adequate deterrence to criminal conduct, to protect the
25 public from further crimes of the defendant. I've also

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1 considered the need to avoid unwarranted sentence disparities
2 among similarly situated defendants, and the need to provide
3 restitution to any victims of the offense.

4 Having considered these factors, it is my intention to
5 accept the recommendation of the probation department and
6 impose a sentence of 12 months and one day on both counts, to
7 be served concurrently with each other and consecutively to Mr.
8 Dawkins' sentence in the case before Judge Kaplan, 17 CR 686.

9 That will be followed by two years of supervised
10 release on each count, to be served concurrently and a \$200
11 special assessment.

12 I will not impose a fine as I find that Mr. Dawkins
13 will not be able to pay a fine.

14 I believe that this sentence is sufficient, but not
15 greater than necessary, to comply with the purposes of
16 sentencing set forth in Section 3553(a)(2), for the following
17 reasons:

18 Part of what made this case difficult for me is not
19 the fact that I did not think that the conduct was wrong or
20 illegal -- I do believe that the conducted was wrong and I
21 certainly accept the government's theory of this case --
22 rather, what made it difficult for me was the fact that Mr.
23 Dawkins and Mr. Code and the others were engaged in conduct
24 that, by and large, almost exclusively, had always been treated
25 in the civil context and not in a criminal context. So I don't

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1 lose the point that there is an element of inequity in the fact
2 that these gentlemen were prosecuted while others have not
3 been, and I think I certainly am not alone in that. I take it
4 that the parties will recall, during the voir dire, many
5 members of the venire had very strong feelings about the
6 current state of amateur athletics in this country; and, again,
7 the defendants, even if not before the jury, have frequently
8 before the Court argued that there is a level of unfairness in
9 this prosecution. But, like I said, that's not for me to
10 determine. The government prevailed on a fairly standard
11 theory of bribery, and the jury accepted their arguments.

12 One of the other issues that I struggled with, with
13 respect to Mr. Dawkins in particular, part of the argument that
14 was made at trial, and made again today, was that he was a very
15 young man, who was misled by others, including the government's
16 cooperators and undercovers. But the problem with that
17 argument is, I heard the tapes, and I heard Mr. Dawkins testify
18 at trial, and, from my perspective, the problem -- his
19 problem -- was not that he was duped or misled by others; from
20 my perspective, his problem was that he was too clever by half.
21 And Mr. Boone, I think, was exactly right when he said that he
22 was the one that was leading a lot of these conversations. He
23 was not a shrinking violet; he was very much an active
24 participant in those conversations, and he was leading the
25 conversations and tried to convince Mr. -- I'm forgetting his

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1 name now -- the investor, and others into exactly what they
2 should do and how they should do it.

3 So, when Mr. Haney made the argument at trial that he
4 was just like this poor, unsophisticated kid from Saginaw,
5 Michigan, I didn't see how that sort of jibed with certainly
6 the Mr. Dawkins that the jury saw, not only on the stand but
7 heard on the tapes.

8 And he is a person, in addition, who by virtue of his
9 upbringing, knew better. He was raised in a close family, a
10 family that certainly experienced a great amount of tragedy but
11 was also a loving and close family, and he had opportunities to
12 go a different way, but he chose to do certain things that
13 brought him here today.

14 And, by the way, he may have been 22 when he engaged
15 in these activities with Mr. Blazer and others, but he was 25
16 or 26 when he came into this courtroom, stood up in the witness
17 stand, put his hand up and swore to tell the truth, and then
18 and, as difficult as this may be for him and his family to
19 hear, I believe that he lied to the jury. And at that time,
20 not only was he not surrounded by unsavory individuals, he had
21 incredibly competent counsel to whom he could have turned and
22 with whom he could have discussed these things, but he made
23 another bad choice in what I consider to be a brazen attempt to
24 get out from under the charges that were leveled against him.

25 So, I do believe that a sentence of incarceration is

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1 necessary. I believe that Mr. Dawkins did himself no favors by
2 testifying, and that, accordingly, he made the sentence worse
3 for himself.

4 However, I am required to look at the other side of
5 the ledger as well, and I do.

6 Again, I note that Mr. Dawkins is a person of
7 considerable skill. He is obviously incredibly intelligent,
8 very articulate, very industrious, he has a good upbringing,
9 and he arguably has an incredibly bright future ahead once he
10 gets all of this past him. He is still a very young person and
11 has an opportunity to right the ship, as it were, and he has
12 continued to try to work to try to make a law-abiding life for
13 himself.

14 So, although I do believe that punishment is
15 necessary, I do not believe that a sentence within the
16 guidelines range of 46 to 57 is appropriate, especially in
17 light of the fact of the sentences that have been handed out in
18 the other related cases; and, therefore, I do believe that the
19 probation department got it right with its recommendation of
20 one year and one day.

21 With that, does anyone know of any legal reason, other
22 than what has already been argued, why the sentence should not
23 be imposed as I have indicated?

24 Mr. Boone.

25 MR. BOONE: No, your Honor.

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1 THE COURT: Mr. Haney?

2 MR. HANEY: No, your Honor.

3 THE COURT: In that event, it is the judgment of the
4 Court that Mr. Dawkins be sentenced to 12 months and one day
5 imprisonment on each count of conviction, to be served
6 concurrently with each other and consecutively to the sentence
7 imposed in 17 CR 686.

8 The standard conditions of probation 1 through 12
9 shall apply, as well as the following mandatory and special
10 conditions:

11 The mandatory conditions are:

12 That you not commit another federal, state or local
13 crime;

14 You not unlawfully possess a controlled substance;

15 You must refrain from the unlawful use of a controlled
16 substance;

17 And you must submit to a drug test within 15 days of
18 release from imprisonment and at least two periodic drug tests
19 thereafter, as determined by probation.

20 The special conditions are:

21 That you will participate in an outpatient program
22 approved by the probation office, which program may include
23 testing to determine whether you have reverted to using drugs
24 or alcohol;

25 You must provide the probation officer with access to

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1 any requested financial information;

2 You must not incur new credit charges or open
3 additional lines of credit without the approval of probation;

4 And if you live outside of this district, it is
5 recommended that you be supervised by the district of
6 residence.

7 You are also ordered to pay a mandatory special
8 assessment of \$200, which shall be due immediately.

9 With respect to forfeiture and restitution, Mr. Boone,
10 what is the government's position?

11 MR. BOONE: Your Honor, we're not seeking forfeiture.

12 In terms of restitution, we've notified the victims,
13 and, so far, no one has indicated they are seeking restitution.

14 THE COURT: Very well.

15 So, forfeiture and restitution will not be imposed.

16 That constitutes the sentence of the Court.

17 Mr. Dawkins, you have a right to appeal the sentence;
18 however, there are very strict guidelines or time limits within
19 you must protect your appeal.

20 So, Mr. Haney, will you assure me that you will
21 promptly and thoroughly discuss with Mr. Dawkins his appellate
22 rights, including the timeliness on the exercise of those
23 rights?

24 MR. HANEY: I will, your Honor.

25 And could we be heard on bail pending appeal, as we

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1 did in the Kaplan Gatto case as well?

2 THE COURT: Sure, certainly.

3 MR. HANEY: Would you like that now, your Honor?

4 THE COURT: Does the government oppose bail pending
5 appeal?

6 MR. BOONE: I'd like to hear his application. We may.

7 THE COURT: Very well.

8 MR. HANEY: Thank you, your Honor.

9 I'm not going to educate the Court. The Court is
10 obviously well aware, under 18, U.S.C., Section 3143(b), there
11 is bail pending appeal. We offered these same arguments in the
12 Gatto case, and, as the Court is obviously aware, bail pending
13 appeal was granted.

14 In part, if I recall -- I didn't make that argument,
15 Mr. Moore did, but it was granted rather summarily by Judge
16 Kaplan, given the novel nature of the questions at issue -- I
17 would submit there certainly has never been a case upholding
18 convictions of comparable facts, in the history of the country,
19 not that I'm aware of, where there was a case such as this, not
20 to diminish the case or any of the judges' decisions or
21 rulings, but would submit it would be appropriate, as it was in
22 the Kaplan case, that bail pending appeal would be granted.

23 Thank you, your Honor.

24 THE COURT: Yes.

25 Mr. Boone?

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1 MR. BOONE: Your Honor, the legal issues in this case
2 are very different than the ones in the Gatto case. The Gatto
3 case involved the right-to-control theory that, at least to
4 some degree, has been litigated in the Second Circuit. As your
5 Honor indicated moments ago here, our charges are bribery
6 charges, and the way we have applied them are pretty standard.
7 So, we don't see that there actually is a close question as to
8 the charges and the legal issues here.

9 I haven't heard any suggestion that there are any
10 close questions regarding sort of evidentiary rulings that
11 would -- certainly not any that would result in a different
12 outcome for the defendant.

13 So, we do oppose, based on that ground that there are
14 not close questions of law.

15 THE COURT: I will grant the application, and Mr.
16 Dawkins can remain free on bail pending appeal.

17 MR. HANEY: Thank you, your Honor.

18 THE COURT: Any other applications, Mr. Haney?

19 MR. HANEY: No, sir. Thank you.

20 THE COURT: Mr. Boone?

21 MR. BOONE: Nothing further, your Honor.

22 THE COURT: In that event, we are adjourned.

23 And, Mr. Dawkins, good luck to you, sir.

24 THE DEFENDANT: Thank you.

25 * * *